

REMARKS

This Response responds to the Office Action dated October 7, 2009, in which the Examiner rejected claims 1-12 under 35 U.S.C. § 103.

Claims 1, 3, 6, 11 and 12 were rejected under 35 U.S.C. § 103 as being unpatentable over *Yamaguchi, et al.* (U.S. Publication No. 2002/0149621) in view of *Anft, et al.* (WO 01/19057).

Applicants respectfully traverse the Examiner's rejection of the claims under 35 U.S.C. § 103. The claims have been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicants respectfully request the Examiner withdraws the rejection to the claims and allows the claims to issue.

Applicants respectfully point out that the present application claims priority from Japanese application 2002-059118 filed March 5, 2002. A certified translation of the priority document was filed on June 24, 2009 in order to perfect Applicant's claim. Applicant respectfully points out that *Yamaguchi, et al.* and the present application are commonly assigned to Sony Corporation and Sony Ericsson Mobil Communications Japan. As set forth in 35 U.S.C. § 103 (c) (1):

"Subject matter developed by another person, which qualifies as prior art only under one of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

Applicants respectfully point out that *Yamaguchi, et al.* constitute prior art only under 35 U.S.C. § 102 (e). Furthermore, Applicants hereby submit that the present application and *Yamaguchi, et al.*, at the time the present invention was made, owned by Sony Corporation and Sony Ericsson Mobil Communications Japan. Accordingly, *Yamaguchi, et al.* is disqualified from being used in rejection under 35 U.S.C. § 103 (a) against the claims of the present invention. Therefore, Applicants respectfully request the Examiner withdraws the rejection to claims 1, 3, 6, 11 and 12 under 35 U.S.C. § 103.

Claim 2 was rejected under 35 U.S.C. § 103 as being unpatentable over *Yamaguchi, et al.* and *Anft, et al.* and further in view of *Tatsuya, et al.* (JP 2001-184158); claims 4-5 and 7-10 were rejected under 35 U.S.C. § 103 as being unpatentable over *Yamaguchi, et al.* and *Anft, et al.* and further in view of *Mugura, et al.* (U.S. Publication No. 2002/0054106); and claim 10 was rejected under 35 U.S.C. § 103 as being unpatentable over *Yamaguchi, et al.* and *Anft, et al.*, and further in view of *Mugura, et al.* and *Tatsuya, et al.*

Applicants respectfully traverse the Examiner's rejection of the claims under 35 U.S.C. § 103. The claims have been reviewed in light of the Office Action, and for reasons which will be set forth below, Applicants respectfully request the Examiner withdraws the rejection to the claims and allows the claims to issue.

As discussed above, since *Yamaguchi, et al.* is not a proper reference, Applicants respectfully request the Examiner withdraws the rejection to claims 2, 4-5 and 7-10 under 35 U.S.C. § 103.

Thus it now appears that the application is in condition for a reconsideration and allowance. Reconsideration and allowance at an early date are respectfully requested.

CONCLUSION

If for any reason the Examiner feels that the application is not now in condition for allowance, the Examiner is requested to contact, by telephone, the Applicants' undersigned attorney at the indicated telephone number to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed within the currently set shortened statutory period, Applicants respectfully petition for an appropriate extension of time. The fees for such extension of time may be charged to Deposit Account No. 50-0320.

In the event that any additional fees are due with this paper, please charge our Deposit Account No. 50-0320.

Respectfully submitted,

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